

REMARKS

In the Office Action, claims 1-4 and 6-12 were rejected on the ground of nonstatutory obviousness-type double patenting. Claims 1-4 and 6-12 remain pending in the present patent application.

Double Patenting

Claims 1-4 and 6-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 10/609891.

Applicants submit that the provisional double patenting rejection cannot be maintained insomuch as it is the only remaining rejection. In accordance with the MPEP:

The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications. MPEP § 822.01.

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If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. MPEP § 804.

Because the provisional double patenting rejection is the only remaining rejection in this application, Applicants respectfully request that the rejection be withdrawn and all pending claims be allowed. A notice to that effect is earnestly solicited at the Examiner's earliest convenience.

If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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